

AMENDED IN SENATE APRIL 19, 2005

SENATE BILL

No. 17

Introduced by Senator Escutia

December 6, 2004

~~An act to amend Sections 62, 64, 65.1, and 482 of, to add Sections 64.1, 64.5, and 486 to, to repeal Section 480.2 of, and to repeal and~~ *An act to amend Sections 64 and 482 of, to add Section 486 to, to repeal Section 480.2 of, and to repeal and* add Section 480.1 of, the Revenue and Taxation Code, relating to property taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 17, as amended, Escutia. Property tax: change in ownership.

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975–76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. Existing property tax law specifies those circumstances in which the transfer of ownership interests in a corporation, partnership, limited liability company, or other legal entity results in a change in ownership of the real property owned by that entity, and generally provides that a change in ownership as so described occurs when a legal entity or other person obtains a controlling or majority ownership interest in the legal entity. Existing law also specifies other circumstances in which certain transfers of ownership interests in legal entities result in a change in ownership of the real property owned by those legal entities.

~~This bill would instead specify that when ownership interests in a legal entity, as defined, are transferred, the real property directly or indirectly owned by that legal entity has changed ownership in proportion to that portion of the ownership interests in the entity that were transferred. This bill would also *instead* provide that all of the real property owned by a legal entity *that is not a publicly traded company, as defined*, in the state has undergone a change in ownership when over 50% of the ownership interests in that entity have been transferred *to one or more persons or entities in one or more transactions during an assessment year*, as specified. This bill would also specify, in the case of a publicly traded company, that all of the real property owned by the company in the state has undergone a change in ownership when over 50% of the ownership interests in that company have been transferred. This bill would establish a rebuttable presumption that, as of January 1, 2006, and on January 1 of each 3rd fiscal year thereafter, all of the real property owned by a publicly traded company in the state has undergone a change in ownership. This bill would require local assessors to notify a publicly traded company of this presumption and allow an assessee or an assessor to rebut this presumption in a specified manner. This bill would also require the State Board of Equalization to promulgate regulations to implement these provisions.~~

Existing law requires a person or entity that obtains a controlling or majority ownership interest in a legal entity, or an entity that makes specified transfers of ownership interests in the legal entity, to file a change in ownership statement, as specified, with the State Board of Equalization within 45 days of specified transactions, or whenever requested by that board. Existing law imposes a penalty of 10% of the taxes owed to the county on a parcel of real property if an assessee fails to file a change in ownership statement with the board within 45 days of a board request.

This bill would require a ~~publicly traded company or~~ legal entity that ~~directly or indirectly~~ owns real property that has undergone a change in ownership to file a change in ownership statement, as specified, with the board within 60 days of specified transactions and would impose specified penalties if the statement is not timely filed or contains misrepresentations. This bill would specify that these reporting provisions do not apply to property that is assessed by the State Board of Equalization, as provided. This bill would also make conforming changes to related provisions. This bill would also

authorize the board and local assessors to subpoena witnesses and documents to assist in determining changes in ownership.

This bill would result in a change in state taxes for the purpose of increasing revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

~~By requiring local assessors to notify publicly traded companies of the rebuttable presumption described above~~ *changing the manner in which local assessors determine changes in ownership of real property owned by legal entities*, this bill would impose a state-mandated local program.

~~The~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would take effect immediately; as a tax levy, but its operative date would be January 1, 2006.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 64 of the Revenue and Taxation Code is*
2 *amended to read:*

3 64. (a) Except as provided in subdivision (i) of Section 61
4 and subdivisions (c) and (d) ~~of this section~~, the purchase or
5 transfer of ownership interests in legal entities, such as corporate
6 stock or partnership or limited liability company interests, ~~shall~~
7 ~~not be deemed to~~ *does not* constitute a transfer of the real
8 property of the legal entity. This subdivision ~~is applicable~~ *applies*
9 to the purchase or transfer of ownership interests in a partnership
10 without regard to whether it is a continuing or a dissolved
11 partnership.

12 (b) Any corporate reorganization, where all of the corporations
13 involved are members of an affiliated group, and that qualifies as
14 a reorganization under Section 368 of the United States Internal
15 Revenue Code and that is accepted as a nontaxable event by

1 similar California statutes, or any transfer of real property among
2 members of an affiliated group, or any reorganization of farm
3 credit institutions pursuant to the federal Farm Credit Act of
4 1971 (Public Law 92-181), as amended, shall not be a change of
5 ownership. The taxpayer shall furnish proof, under penalty of
6 perjury, to the assessor that the transfer meets the requirements of
7 this subdivision.

8 For purposes of this subdivision, “affiliated group” means one
9 or more chains of corporations connected through stock
10 ownership with a common parent corporation if both of the
11 following conditions are met:

12 (1) One hundred percent of the voting stock, exclusive of any
13 share owned by directors, of each of the corporations, except the
14 parent corporation, is owned by one or more of the other
15 corporations.

16 (2) The common parent corporation owns, directly, 100
17 percent of the voting stock, exclusive of any shares owned by
18 directors, of at least one of the other corporations.

19 (c) (1) (A) When a corporation, partnership, limited liability
20 company, other legal entity, or any other person obtains control
21 through direct or indirect ownership or control of more than 50
22 percent of the voting stock of any corporation *that is a publicly*
23 *traded company*, or obtains a majority ownership interest in any
24 partnership, limited liability company, or other legal entity *that is*
25 *a publicly traded company* through the purchase or transfer of
26 corporate stock, partnership, or limited liability company interest,
27 or ownership interests in other legal entities *that are publicly*
28 *traded companies*, including any purchase or transfer of 50
29 percent or less of the ownership interest through which control or
30 a majority ownership interest *in the publicly traded company* is
31 obtained, the purchase or transfer of that stock or other interest
32 shall be a change of ownership of the real property owned by the
33 corporation, partnership, limited liability company, or other legal
34 entity in which the controlling interest is obtained.

35 (B) *When one or more corporations, partnerships, limited*
36 *liability companies, other legal entities, or any other person or*
37 *persons obtains control through direct or indirect ownership or*
38 *control of more than 50 percent of the voting stock of any*
39 *corporation that is not a publicly traded company, or obtains a*
40 *majority ownership interest in any partnership, limited liability*

1 *company, or other legal entity that is not a publicly traded*
2 *company through the purchase or transfer, in one or more*
3 *transactions during an assessment year, of corporate stock,*
4 *partnership, or limited liability company interests, or ownership*
5 *interests in other legal entities that are not publicly traded*
6 *companies, including any purchase or transfer of 50 percent or*
7 *less of the ownership interest through which control or a*
8 *majority ownership interest is obtained, the purchase or transfer*
9 *of that stock or other interest shall be a change of ownership of*
10 *the real property owned by the corporation, partnership, limited*
11 *liability company, or other legal entity in which the controlling*
12 *interest is obtained.*

13 (2) On or after January 1, 1996, when an owner of a majority
14 ownership interest in any partnership obtains all of the remaining
15 ownership interests in that partnership or otherwise becomes the
16 sole partner, the purchase or transfer of the minority interests,
17 subject to the appropriate application of the step-transaction
18 doctrine, shall not be a change in ownership of the real property
19 owned by the partnership.

20 (d) If property is transferred on or after March 1, 1975, to a
21 legal entity in a transaction excluded from change in ownership
22 by paragraph (2) of subdivision (a) of Section 62, then the
23 persons holding ownership interests in that legal entity
24 immediately after the transfer shall be considered the “original
25 coowners.” Whenever shares or other ownership interests
26 representing cumulatively more than 50 percent of the total
27 interests in the entity are transferred by any of the original
28 coowners in one or more transactions, a change in ownership of
29 that real property owned by the legal entity shall have occurred,
30 and the property that was previously excluded from change in
31 ownership under the provisions of paragraph (2) of subdivision
32 (a) of Section 62 shall be reappraised.

33 The date of reappraisal shall be the date of the transfer of the
34 ownership interest representing individually or cumulatively
35 more than 50 percent of the interests in the entity.

36 A transfer of shares or other ownership interests that results in
37 a change in control of a corporation, partnership, limited liability
38 company, or any other legal entity is subject to reappraisal as
39 provided in subdivision (c) rather than this subdivision.

(e) To assist in the determination of whether a change of ownership has occurred under subdivisions (c) and (d), the Franchise Tax Board shall include a question in substantially the following form on returns for *all* partnerships, banks, and corporations (except tax-exempt organizations):

If the corporation (or partnership or limited liability company) owns *or leases* real property in California, has cumulatively more than 50 percent of the voting stock (or more than 50 percent of total interest in both partnership or limited liability company capital and partnership or limited liability company profits) (1) been transferred by the corporation (or partnership or limited liability company) since March 1, 1975, or (2) been acquired by another legal entity or person during the year? (See instructions.)

If the entity answers “yes” to (1) or (2) in the above question *or does not respond*, then the Franchise Tax Board shall furnish the names and addresses of that entity and of the stock or partnership or limited liability company ownership interest transferees to the State Board of Equalization.

(f) *For purposes of this section, “publicly traded company” means a corporation or other entity that meets both of the following conditions:*

(A) *The corporation or entity is subject to the filing requirements of the United States Securities and Exchange Commission.*

(B) *The corporation or entity owns an interest in real property in California.*

SEC. 2. Section 480.1 of the Revenue and Taxation Code is repealed.

~~480.1. (a) Whenever there is a change in control of any corporation, partnership, limited liability company, or other legal entity, as defined in subdivision (c) of Section 64, a signed change in ownership statement as provided for in subdivision (b), shall be filed by the person or legal entity acquiring ownership control of such corporation, partnership, limited liability company, or other legal entity with the board at its office in Sacramento. The statement shall list all counties in which the corporation, partnership, limited liability company, or legal entity owns real property.~~

~~(b) The change in ownership statement as required pursuant to subdivision (a), shall be declared to be true under penalty of~~

1 perjury and shall give such information relative to the ownership
2 control acquisition transaction as the board shall prescribe after
3 consultation with the California Assessors' Association. The
4 information shall include, but not be limited to, a description of
5 the property owned by the corporation, partnership, limited
6 liability company, or other legal entity, the parties to the
7 transaction, and the date of the ownership control acquisition.
8 The change in ownership statement shall not include any
9 question which is not germane to the assessment function. The
10 statement shall contain a notice that is printed, with the title at
11 least 12-point boldface type and the body in at least 8-point
12 boldface type, in the following form:

13
14 "Important Notice"

15
16 "The law requires any person or legal entity acquiring
17 ownership control in any corporation, partnership, limited
18 liability company, or other legal entity owning real property in
19 California subject to local property taxation to complete and file
20 a change in ownership statement with the State Board of
21 Equalization at its office in Sacramento. The change in
22 ownership statement must be filed within 45 days from the date
23 of the change in control of a corporation, partnership, limited
24 liability company, or other legal entity. The law further requires
25 that a change in ownership statement be completed and filed
26 whenever a written request is made therefor by the State Board of
27 Equalization, regardless of whether a change in control of the
28 legal entity has occurred. The failure to file a change in
29 ownership statement within 45 days from the date of a written
30 request by the State Board of Equalization results in a penalty of
31 10 percent of the taxes applicable to the new base year value
32 reflecting the change in control of the real property owned by the
33 corporation, partnership, limited liability company, or legal entity
34 (or 10 percent of the current year's taxes on that property if no
35 change in control occurred). This penalty will be added to the
36 assessment roll and shall be collected like any other delinquent
37 property taxes, and be subject to the same penalties for
38 nonpayment."

39 (c) In the case of a corporation, the change in ownership
40 statement shall be signed either by an officer of the corporation

1 ~~or an employee or agent who has been designated in writing by~~
2 ~~the board of directors to sign such statements on behalf of the~~
3 ~~corporation. In the case of a partnership, limited liability~~
4 ~~company, or other legal entity, the statement shall be signed by~~
5 ~~an officer, partner, manager, or an employee or agent who has~~
6 ~~been designated in writing by the partnership, limited liability~~
7 ~~company, or legal entity.~~

8 ~~(d) No person or entity acting for or on behalf of the parties to~~
9 ~~a transfer of real property shall incur liability for the~~
10 ~~consequences of assistance rendered to the transferee in~~
11 ~~preparation of any change in ownership statement, and no action~~
12 ~~may be brought or maintained against any such person or entity~~
13 ~~as a result of such assistance.~~

14 ~~Nothing in this section shall create a duty, either directly or by~~
15 ~~implication, that such assistance be rendered by any person or~~
16 ~~entity acting for or on behalf of parties to a transfer of real~~
17 ~~property.~~

18 ~~(e) The board or assessors may inspect any and all records and~~
19 ~~documents of a corporation, partnership, limited liability~~
20 ~~company, or legal entity to ascertain whether a change in control~~
21 ~~as defined in subdivision (c) of Section 64 has occurred. The~~
22 ~~corporation, partnership, limited liability company, or legal entity~~
23 ~~shall upon request, make such documents available to the board~~
24 ~~during normal business hours.~~

25 *SEC. 3. Section 480.1 is added to the Revenue and Taxation*
26 *Code, to read:*

27 *480.1. (a) Whenever the transfer of ownership interests in a*
28 *corporation, partnership, limited liability company, or other*
29 *legal entity constitutes a change in ownership of the real*
30 *property owned by the entity, as described in subdivisions (c) and*
31 *(d) of Section 64, the entity that owns that real property shall file*
32 *with the board at its office in Sacramento a signed change in*
33 *ownership statement, as specified in subdivision (b), within 60*
34 *days of the transfer of these ownership interests. The entity shall*
35 *attach to the statement a list, by county, of the real property that*
36 *the entity owns in the state and describing the real property by*
37 *assessor parcel number.*

38 *(b) The change in ownership statement required under*
39 *subdivision (a) shall be declared to be true under penalty of*
40 *perjury and shall give any information relative to the change in*

ownership as the board shall prescribe after consultation with the California Assessors' Association. The information shall include, but not be limited to, a description of the real property owned by the entity by assessor parcel number, the parties to the transaction or transactions in which ownership interests in the entity were transferred, and the date of the ownership interest transfers. The change in ownership statement shall not include any question that is not germane to the assessment function. The statement shall contain a notice that is printed, with the title in at least 12-point boldface type and the body in at least 8-point boldface type, in the following form:

"Important Notice"

"Whenever the transfer of ownership interests in a corporation, partnership, limited liability company, or other legal entity constitutes a change in ownership of the real property owned by the legal entity, the law requires the entity that owns that real property to complete and file a change in ownership statement with the State Board of Equalization at its office in Sacramento. The change in ownership statement must be filed within 60 days from the date of the change in ownership. The law further requires that a change in ownership statement be completed and filed, within 45 days, whenever a written request is made therefor by the State Board of Equalization, regardless of whether a change in ownership of the real property owned by the entity has occurred. Failure to file timely statements or making willful misrepresentations in these statements will result in penalties as provided by law."

(c) In the case of a publicly traded company, the change in ownership statement shall be signed either by an officer of the company or an employee or agent who has been designated in writing by the board of directors to sign these statements on behalf of the company. In the case of a corporation, partnership, limited liability company, or other legal entity that is not a publicly traded company, the statement shall be signed by an officer, partner, manager, member, or an employee or agent who has been designated in writing by the entity to sign these statements on behalf of the entity.

(d) No person or entity acting for or on behalf of the parties to a transfer of ownership interests in a corporation, partnership, limited liability company, or other legal entity is liable for the

1 *consequences of assistance rendered to a transferee in*
2 *preparation of any change in ownership statement, and no action*
3 *may be brought or maintained against any person or entity as a*
4 *result of this assistance. This section does not create a duty,*
5 *either directly or by implication, that assistance be rendered by*
6 *any person or entity acting for or on behalf of parties to a*
7 *transfer of ownership interests in a corporation, partnership,*
8 *limited liability company, or other legal entity.*

9 *(e) The board or the assessor may inspect any and all records*
10 *and documents of a corporation, partnership, limited liability*
11 *company, or other legal entity and may request additional*
12 *information from the entity to identify its real property and to*
13 *ascertain whether a change in ownership of the real property*
14 *owned the entity, as described in subdivisions (c) and (d) of*
15 *Section 64, has occurred. Upon a written request by the board or*
16 *the assessor, the entity shall furnish the requested records,*
17 *documents, and information to the board or the assessor during*
18 *normal business hours.*

19 *(f) This section does not apply to changes in ownership of*
20 *property that is assessed by the State Board of Equalization*
21 *pursuant to Section 19 of Article XIII of the California*
22 *Constitution.*

23 *(g) For purposes of this section, “publicly traded company”*
24 *means a corporation or other entity that meets both of the*
25 *following conditions:*

26 *(A) The corporation or entity is subject to the filing*
27 *requirements of the United States Securities and Exchange*
28 *Commission.*

29 *(B) The corporation or entity owns an interest in real property*
30 *in California.*

31 *SEC. 4. Section 480.2 of the Revenue and Taxation Code is*
32 *repealed.*

33 ~~480.2. (a) Whenever there is a change in ownership of any~~
34 ~~corporation, partnership, limited liability company, or other legal~~
35 ~~entity, as defined in subdivision (d) of Section 64, a signed~~
36 ~~change in ownership statement as provided in subdivision (b)~~
37 ~~shall be filed by such corporation, partnership, limited liability~~
38 ~~company, or other legal entity with the board at its office in~~
39 ~~Sacramento. The statement shall list all counties in which the~~

1 corporation, partnership, limited liability company, or legal entity
2 owns real property.

3 (b) ~~The change in ownership statement required pursuant to~~
4 ~~subdivision (a) shall be declared to be true and under penalty of~~
5 ~~perjury and shall give such information relative to the ownership~~
6 ~~interest acquisition transaction as the board shall prescribe after~~
7 ~~consultation with the California Assessors' Association. The~~
8 ~~information shall include, but not be limited to, a description of~~
9 ~~the property owned by the corporation, partnership, limited~~
10 ~~liability company, or other legal entity, the parties to the~~
11 ~~transaction, the date of the ownership interest acquisition, and a~~
12 ~~listing of the "original coowners" of the corporation, partnership,~~
13 ~~limited liability company, or other legal entity prior to the~~
14 ~~transaction. The change in ownership statement shall not include~~
15 ~~any question which is not germane to the assessment function.~~
16 ~~The statement shall contain a notice that is printed, with the title~~
17 ~~in at least 12-point boldface type and the body in at least 8-point~~
18 ~~boldface type, in the following form:~~

19
20 "Important Notice"

21
22 "The law requires any corporation, partnership, limited liability
23 company, or other legal entity owning real property in California
24 subject to local property taxation and transferring shares or other
25 ownership interest in such legal entity which constitute a change
26 in ownership pursuant to subdivision (d) of Section 64 of the
27 Revenue and Taxation Code to complete and file a change in
28 ownership statement with the State Board of Equalization at its
29 office in Sacramento. The change in ownership statement must
30 be filed within 45 days from the date that shares or other
31 ownership interests representing cumulatively more than 50
32 percent of the total control or ownership interests in the entity are
33 transferred by any of the original coowners in one or more
34 transactions. The law further requires that a change in ownership
35 statement be completed and filed whenever a written request is
36 made therefor by the State Board of Equalization, regardless of
37 whether a change in ownership of the legal entity has occurred.
38 The failure to file a change in ownership statement within 45
39 days from the date of a written request by the Board of
40 Equalization results in a penalty of 10 percent of the taxes

1 applicable to the new base year value reflecting the change in
2 ownership of the real property owned by the corporation,
3 partnership, limited liability company, or legal entity (or 10
4 percent of the current year's taxes on that real property if no
5 change in ownership occurred). This penalty will be added to the
6 assessment roll and shall be collected like any other delinquent
7 property taxes, and be subject to the same penalties for
8 nonpayment."

9 (c) In the case of a corporation, the change in ownership
10 statement shall be signed either by an officer of the corporation
11 or an employee or agent who has been designated in writing by
12 the board of directors to sign such statements on behalf of the
13 corporation. In the case of a partnership, limited liability
14 company, or other legal entity, the statement shall be signed by
15 an officer, partner, manager, or an employee or agent who has
16 been designated in writing by the partnership, limited liability
17 company, or legal entity.

18 (d) No person or entity acting for or on behalf of the parties to
19 a transfer of real property shall incur liability for the
20 consequences of assistance rendered to the transferee in
21 preparation of any change in ownership statement, and no action
22 may be brought or maintained against any such person or entity
23 as a result of such assistance.

24 Nothing in this section shall create a duty, either directly or by
25 implication, that such assistance be rendered by any person or
26 entity acting for or on behalf of parties to a transfer of real
27 property.

28 (e) The board or assessors may inspect any and all records and
29 documents of a corporation, partnership, limited liability
30 company, or legal entity to ascertain whether a change in
31 ownership as defined in subdivision (d) of Section 64 has
32 occurred. The corporation, partnership, limited liability company,
33 or legal entity shall upon request, make such documents available
34 to the board during normal business hours.

35 *SEC. 5. Section 482 of the Revenue and Taxation Code is*
36 *amended to read:*

37 482. (a) If a person or legal entity required to file a statement
38 described in Section 480 fails to do so within 45 days from the
39 date of a written request by the assessor, a penalty of either: (1)
40 one hundred dollars (\$100), or (2) 10 percent of the taxes

1 applicable to the new base year value reflecting the change in
2 ownership of the real property or manufactured home, whichever
3 is greater, but not to exceed two thousand five hundred dollars
4 (\$2,500) if the failure to file was not willful, shall, except as
5 otherwise provided in this section, be added to the assessment
6 made on the roll. The penalty shall apply for failure to file a
7 complete change in ownership statement notwithstanding the fact
8 that the assessor determines that no change in ownership has
9 occurred as defined in Chapter 2 (commencing with Section 60)
10 of Part 0.5. The penalty may also be applied if after a request the
11 transferee files an incomplete statement and does not supply the
12 missing information upon a second request.

13 ~~(b) If a person or legal entity required to file a statement~~
14 ~~described in Section 480.1 or 480.2 fails to do so within 45 days~~
15 ~~from the date of a written request by the State Board of~~
16 ~~Equalization, a penalty of 10 percent of the taxes applicable to~~
17 ~~the new base year value reflecting the change in control or~~
18 ~~change in ownership of the real property owned by the~~
19 ~~corporation, partnership, or legal entity, or 10 percent of the~~
20 ~~current year's taxes on that property if no change in control or~~
21 ~~change in ownership occurred, shall be added to the assessment~~
22 ~~made on the roll. The penalty shall apply for failure to file a~~
23 ~~complete statement notwithstanding the fact that the board~~
24 ~~determines that no change in control or change in ownership has~~
25 ~~occurred as defined in subdivision (c) or (d) of Section 64. The~~
26 ~~penalty may also be applied if after a request the person or legal~~
27 ~~entity files an incomplete statement and does not supply the~~
28 ~~missing information upon a second request. That penalty shall be~~
29 ~~in lieu of the penalty provisions of subdivision (a). However, the~~
30 ~~penalty added by this subdivision shall be automatically~~
31 ~~extinguished if the person or legal entity files a complete~~
32 ~~statement described in Section 480.1 or 480.2 no later than 60~~
33 ~~days after the date on which the person or legal entity is notified~~
34 ~~of the penalty.~~*(1) (A) If a legal entity is required to file a*
35 *change in ownership statement described in Section 480.1 and*
36 *fails to do so within 60 days of the date that sufficient ownership*
37 *interests in the entity were transferred to constitute a change in*
38 *ownership of the real property owned by the entity, the entity*
39 *shall pay a penalty on each property subject to reassessment due*
40 *to the change in ownership equal to the greater of:*

1 (i) One thousand dollars (\$1,000).

2 (ii) Ten percent of the taxes applicable to each new base year
3 value reflecting the change in ownership of the real property
4 owned by the legal entity.

5 (B) The State Board of Equalization may make a written
6 request that any legal entity complete and file the change in
7 ownership statement described in Section 480.1. If a legal entity
8 that was requested to file a statement fails to do so within 45
9 days from the date of a written request by the State Board of
10 Equalization, a penalty of 10 percent of the taxes applicable to
11 each new base year value reflecting the change in ownership of
12 the real property owned by the legal entity, or 10 percent of the
13 current year's taxes on that property if no change in ownership
14 occurred, shall be added to the assessment made on the roll. This
15 penalty applies for failure to file a complete requested statement
16 notwithstanding the fact that the board determines that no
17 change in ownership, as described in subdivisions (c) and (d) of
18 Section 64, has occurred. This penalty may also be applied if
19 after a request the legal entity files an incomplete statement and
20 does not supply the missing information upon a second request.
21 The penalty described in this subparagraph is in addition to the
22 penalties described in subparagraph (A). However, the penalty
23 added by this subparagraph shall be automatically extinguished
24 in either of the following circumstances:

25 (i) The legal entity files a complete requested statement no
26 later than 45 days after the date on which the legal entity is
27 notified of the penalty described in this paragraph.

28 (ii) The legal entity had filed a change in ownership statement
29 as required by Section 480.1 within 60 days of the change in
30 ownership for which the written board request pertains.

31 (2) If a legal entity willfully misrepresents information on a
32 change in ownership statement described in Section 480.1, in
33 addition to the penalties described in paragraph (1), the entity
34 shall pay a penalty on each parcel of the real property owned by
35 the legal entity in the state equal to the greater of:

36 (A) Two thousand five hundred dollars (\$2,500).

37 (B) Twenty-five percent of the current year's ad valorem
38 property taxes.

(3) *If real property escapes taxation or is underassessed following a change in ownership, the provisions of paragraph (3) of subdivision (b) of Section 532 may apply.*

(c) The penalty for failure to file a timely statement pursuant to ~~Sections 480, 480.1, and 480.2~~ *Section 480* for any one transfer may be imposed only one time, even though the assessor may initiate a request as often as he or she deems necessary.

(d) The penalty shall be added to the roll in the same manner as a special assessment and treated, collected, and subject to the same penalties for the delinquency as all other taxes on the roll in which it is entered.

(1) When the transfer to be reported under this section is of a portion of a property or parcel appearing on the roll during the fiscal year in which, *as applicable*, the 45-day *or 60-day* period expires, the current year's taxes shall be prorated so the penalty will be computed on the proportion of property ~~which~~ *that* has transferred.

(2) Any penalty added to the roll pursuant to this section between January 1 and June 30 may be entered either on the unsecured roll or the roll being prepared. After January 1, the penalty may be added to the current roll only with the approval of the tax collector.

(3) If the property is transferred or conveyed to a bona fide purchaser for value or becomes subject to a lien of a bona fide encumbrancer for value after the transfer of ownership resulting in the imposition of the penalty and before the enrollment of the penalty, the penalty shall be entered on the unsecured roll in the name of the transferee whose failure to file the change in ownership statement resulted in the imposition of the penalty.

(e) When a penalty imposed pursuant to this section is entered on the unsecured roll, the tax collector may immediately file a certificate authorized by Section 2191.3.

(f) Notice of any penalty added to either the secured or unsecured roll pursuant to this section shall be mailed by the assessor to the transferee at his or her address contained in any recorded instrument or document evidencing a transfer of an interest in real property or manufactured home or at any address reasonably known to the assessor.

SEC. 6. Section 486 is added to the Revenue and Taxation Code, to read:

1 486. *In addition to any other remedies described in this*
2 *article, if any person or legal entity fails to furnish any*
3 *information or records that are required by this article to be*
4 *furnished upon a request of the State Board of Equalization or*
5 *the assessor for the purpose of securing change in ownership*
6 *information required for assessment purposes, the State Board of*
7 *Equalization may issue subpoenas for the attendance of*
8 *witnesses or the production of information or records in*
9 *accordance with Section 15613 of the Government Code and the*
10 *assessor may apply for a subpoena pursuant to Section 468.*

11 SEC. 7. *No reimbursement is required by this act pursuant to*
12 *Section 6 of Article XIII B of the California Constitution because*
13 *this act provides for offsetting savings to local agencies or school*
14 *districts that result in no net costs to the local agencies or school*
15 *districts, within the meaning of Section 17556 of the Government*
16 *Code.*

17 SEC. 8. *This act provides for a tax levy within the meaning of*
18 *Article IV of the Constitution and shall go into immediate effect.*
19 *However, the provisions of this act shall become operative on*
20 *January 1, 2006.*

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22
23 **All matter omitted in this version of the bill**
24 **appears in the bill as introduced in the**
25 **Senate, December 6, 2004. (JR11)**
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